

Message Text

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TO SECSTATE WASHDC IMMEDIATE 953

C O N F I D E N T I A L MANILA 15188

E.O. 11652: GDS

TAGS: SHUM, MARR, RP

SUBJECT: CONGRESSIONAL REQUEST FOR HUMAN RIGHTS INFORMATION

REF: (A) STATE 240636; (B) MANILA 13573

1. WHILE OBVIOUSLY NOT DEPARTMENT'S INTENT, TONE OF DRAFT REPORT STRIKES US AS SOMEWHAT PROTECTIVE OF GOP. WE ARE APPREHENSIVE THAT IF REPORT SUBMITTED IN ITS PRESENT FORM, IT MIGHT CAUSE US MORE PROBLEMS THAN CANDID APPRAISAL OF GOP'S HUMAN RIGHTS RECORD, WHICH AS WE STRESSED IN REFTEL B (COMMENT ON AI PAPER), IS STILL IN NEED OF MUCH IMPROVEMENT. FOLLOWING ARE SUGGESTED REVISIONS.

2. PARA 4: SECTION I - POLITICAL SITUATION: SUGGEST UP DATE BY NOTING CREATION OF LEGISLATIVE ADVISORY COUNCIL AND PRESIDENT'S ANNOUNCED INTENTION TO CONVENE ELECTED INTERIM LEGISLATURE IN 1977. "IN SEPTEMBER 1976, PRESIDENT MARCOS CREATED A LEGISLATIVE ADVISORY COUNCIL PREPARATORY TO ORGANIZING AN INTERIM LEGISLATIVE BODY IN 1977. ALL OF THE MEMBERS OF THE LEGISLATIVE ADVISORY COUNCIL ARE APPOINTED BY THE PRESIDENT. A REFERENDUM/PLEBISCITE SCHEDULED FOR OCTOBER 16, 1976 WILL APPROVE AMENDMENTS TO THE 1973 CONSTITUTION TO CREATE A LEGISLATIVE BODY. PRESIDENT MARCOS HAS RAISED THE POSSIBILITY OF ELECTIONS FOR THIS BODY, BUT HAS NOT COMMITTED HIMSELF ON TIMING NOR

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SPECIFIED WHETHER THESE ELECTIONS WILL BE DIRECT (BY

POPULAR VOTE) OR INDIRECT (THROUGH THE PEOPLES' ASSEMBLYS OR BARANGAYS)."

3. PARA 4: AFTER SENTENCE ON JUDICIAL SYSTEM FUNCTIONING NORMALLY IN MOST CASES, SUGGEST SUBSTITUTE FOLLOWING LANGUAGE: "ALL MEMBERS OF THE JUDICIARY, HOWEVER, SUBMITTED LETTERS OF RESIGNATION AT THE OUTSET OF MARTIAL LAW. THE PRESIDENT MAY ACCEPT THESE RESIGNATIONS AT ANY TIME. THE SUPREME COURT HAS UPHELD PRESIDENT MARCOS' POSITION IN ALL CASES CHALLENGING HIS MARTIAL LAW POWERS SINCE ITS DECLARATION. THE ARMED FORCES OF THE PHILIPPINES ARE SUBORDINATE TO PRESIDENTIAL CONTROL BUT IN THE LAST FOUR YEARS HAVE PLAYED AN INCREASINGLY LARGER ROLE IN NATIONAL LIFE."

4. PARA 6: SECTION II - LEGAL SITUATION: SUGGEST ADDITION OF FINAL SENTENCE: "HOWEVER, THERE IS CONSIDERABLE QUESTION AS TO THE LEGALITY OF THE RATIFICATION OF THE 1973 CONSTITUTION. IT WAS RATIFIED IN A REFERENDUM BY THE BARANGAYS (PEOPLES' ASSEMBLYS) IN JANUARY 1973 ONLY A FEW MONTHS AFTER THE OUTSET OF MARTIAL LAW. THE RATIFICATION PROCEDURE WAS BY VIVA VOCE VOTE OR BY THE RAISING OF HANDS AND NOT BY SECRET BALLOT."

5. PARA 7: SUGGEST SUBSTITUTION: "IF THE DETERMINATION IS NEGATIVE, THE PERSON MAY BE RELEASED."

6. PARA 8: SECTION III - OFFICIAL ATTITUDE TOWARD AND ACTUAL OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS AND FREEDOMS: (UNDER A, ARTICLE 3) - SUGGEST FOLLOWING SUBSTITUTION: "DULY CONSTITUTED CIVIL COURTS ARE FUNCTIONING IN THE PHILIPPINES AND THE GREAT MAJORITY OF NON-POLITICAL CASES, BOTH CIVIL AND CRIMINAL, ARE PROCESSED..."

(ARTICLE 5) - SUGGEST SENTENCE BEGINNING " IN RECENT YEARS..." BE REVISED TO READ: "IN RECENT YEARS THE NUMBERS OF SUCH REPORTS APPEAR TO HAVE DECREASED BUT THE REPORTS THEMSELVES HAVE BEEN MORE FULLY DOCUMENTED." SUGGEST LAST SENTENCE BE REVISED AS FOLLOWS: "EVIDENCE INDICATES CONFIDENTIAL

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INSTANCES OF TORTURE AND MALTREATMENT REPRESENT ABERRATIONS AND ARE NOT THE RESULT OF EXPLICIT GOVERNMENT POLICY AT THE POLITICAL LEVEL. THE CONDITIONS AND ATMOSPHERE OF MARTIAL LAW, HOWEVER, HELP TO NURTURE THE TORTURE PRACTICE. IN SEPTEMBER 1976, THE GOVERNMENT ANNOUNCED THE CREATION OF A MILITARY COMMITTEE CHAIRED BY THE UNDERSECRETARY OF DEFENSE TO PROBE TORTURE CHARGES AGAINST MEMBERS OF THE ARMED FORCES. THE

GOVERNMENT HAS ALSO INITIATED COURT-MARTIAL PROCEEDINGS AGAINST SEVERAL OFFICERS AND ENLISTED MEN FOR DETAINEE MAL-TREATMENT."

(ARTICLE 9) - IF POSSIBLE, SUGGEST DELETION OF ESTIMATE OF NUMBER OF POLITICAL PRISONERS. WE HAVE CONSISTENTLY ESCHEWED SUCH SPECULATION SINCE IT INVOLVES PLAYING GOP'S POLITICAL PRISONERS GAME. IN ANY EVENT, FIGURE OF 1,000 POLITICAL PRISONERS APPEARS TO BE ON HIGH SIDE. WHILE AMNESTY INTERNATIONAL REPORT STATES (PAGE 4) THAT "INDEPENDENT OBSERVERS ESTIMATE TRUE NUMBER OF POLITICAL PRISONERS MUCH HIGHER THAN 6,000," STATEMENT IS UNSUPPORTED. THE AMRSP REPORT ON "POLITICAL PRISONERS IN THE PHILIPPINES" (PAGE 9) STATES THERE ARE ONLY 510 POLITICAL DETAINEES IN THE METRO MANILA AREA. IT NOTES PROVINCIAL CENTERS ARE NOT INCLUDED IN THE REPORT BUT DOES NOT SPECULATE ON DETAINEE FIGURES IN THE THOUSANDS. ON SEPTEMBER 29, 1976, AP REPORTED THE TASK FORCE ON DETAINEES OF THE AMRSP, IN ANNOUNCING SEVERAL NEW TORTURE CASES SINCE AUGUST, ESTIMATED 440 PRISONERS "DETAINED FOR POLITICAL REASONS IN JAILS AND CENTERS THROUGHOUT THE NATION."

(ARTICLES 10 AND 11) - DEPARTMENT MAY WISH TO ADD THAT PRESIDENT MARCOS DIRECTED THAT ALL CASES PENDING BEFORE MILITARY TRIBUNALS (THESE WOULD INCLUDE POLITICAL PRISONERS CASES) BE TRIED PRIOR TO AUGUST 1976. ONLY CASE WHICH HAS BEEN TRIED, HOWEVER, IS THAT OF FORMER SENATOR BENIGNO AQUINO, AND THAT TRIAL HAS NOT YET BEEN COMPLETED. THE CASES OF TWO OTHER PROMINENT DETAINEES, EUGENIO LOPEZ, JR. AND SERGIO OSMENA, III, REMAIN IN ABEYANCE AS DOES THAT OF AMCIT AUGUST LEHMAN, WHO LIKE LOPEZ AND OSMENA, HAS BEEN HELD FOR FOUR YEARS

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WITHOUT BAIL AND WITHOUT HIS CASE COMING TO ACTUAL TRIAL. RE OTHER IMPORTANT FREEDOMS, REVISE TRAVEL SENTENCE TO READ: "TRAVEL ABROAD FOR TOURISM IS THEORETICALLY NOT ALLOWED BUT A PRACTICAL MATTER IS PERMITTED ALTHOUGH APPLICANTS USUALLY MUST FALL WITHIN CERTAIN SPECIFIED CATEGORIES: SCHOLARS, GOVERNMENT OFFICIALS, DELEGATES TO CONFERENCES, BUSINESSMEN, ETC."

7. PARA 9: SECTION IV - OTHER HUMAN RIGHTS REPORTING: ADD THAT THE ICRC TEAM ALSO VISITED THE PHILIPPINES IN JULY 1976. IN PARA 10 REVISE LAST SENTENCE TO READ: "THE MARCH 31, 1976 ISSUE OF THE AMRSP PUBLICATION, 'SIGNS OF THE TIMES', CONTAINED A 101-PAGE STUDY OF THE SITUATION OF POLITICAL PRISONERS IN THE PHILIPPINES WHICH WAS SUBSEQUENTLY PUBLISHED AS A BOOKLET. "SIGNS OF THE

TIMES' IS A MIMEOGRAPHED WEEKLY PUBLICATION WITH A CIRCULATION OF NOT MORE THAN 2,000."
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